

REMARKS

This application has been reviewed in light of the Final Office Action dated April 30, 2003. Claims 1, 3-11 and 14-30 are pending in the application. Claims 1, 3-11 and 14-29 are amended in a manner that Applicant believes overcome the rejections in the Office Action. Support for the amendments can be found throughout the specification and figures of the present disclosure and recite aspects of the disclosure that Applicant is believed to be entitled. Applicant submits that no new matter or issues are introduced by the amendments.

Initially, Applicant gratefully acknowledges the allowability of the subject matter recited in claims 6-11, 15, 17, 26, 29 and 30. Applicant, however, respectfully submits that in view of the amendments and remarks herein, all claims presently pending in the application are allowable over the art of record.

In the Office Action, claims 1, 3-5, 14, 16, 18-25 and 27-28 were rejected under 35 U.S.C. §102(e) over U.S. Patent No. 5,853,600 to McNeal et al. (McNeal '600). However, it is respectfully submitted that amended independent claim 1, claim 3 depending therefrom, amended independent claim 4, claims 5-11 and 14-18 ultimately depending therefrom, amended independent claim 19, claim 20 depending therefrom, amended independent claim 21 and claims 22-29 ultimately depending therefrom, clearly and patentably distinguish over McNeal '600.

Referring to FIGS. 1-11, McNeal '600 discloses a blood separation system having a tube 10 with longitudinally extending ribs 20 (col. 2, lines 60-63), employed during axial centrifugation (col. 1, lines 44-46). Longitudinal ribs 20 extend along the length of tube 10 (see tube 10 in FIG. 7) to separate the longitudinal strips of gel material 24 introduced therein (see FIG. 3). Thus, the longitudinal strips are spaced apart and gel 24 is not radially contiguous with the inner surface of tube 10.

In contrast, amended claim 1 of the present application recites, *inter alia*, "...[a] blood collection apparatus comprising a blood collection tube defining an inner surface; and... gel being selectively deposited and radially contiguous on the inner surface..." Amended claim 4

recites, *inter alia*, "...[a] blood collection apparatus comprising... gel being deposited on and radially contiguous on the central inner surface and displaced a distance relative to the closed end, said distance based on the central inner surface defining a predetermined first limit and a predetermined second limit relative to the end..." Amended claim 19 recites, *inter alia*, "...[a] blood collection apparatus comprising... gel being deposited on and radially contiguous on a predetermined portion of the central inner surface."

In further contrast, amended method claim 21 of the present application recites, *inter alia*, "...[a] method for separating a sample of blood into portions including a light serum portion and a heavy cellular portion, the method comprising the steps of...providing a blood collection tube defining...a closed end; providing a dispensing apparatus configured to dispense a thixotropic gel being configured to form a transverse barrier between the light serum portion and the heavy cellular portion of a blood sample during centrifugation, the gel being deposited and radially contiguous along a portion of the central inner surface and displaced a distance relative to the closed end, said distance based on the portion of the central inner surface defining a predetermined first limit and a predetermined second limit relative to the end, the limits being predetermined based on at least one dimension of the blood collection tube and a volume of the blood sample being collected; depositing the gel for centrifugation via the dispensing apparatus along the portion of the central inner surface in a radially contiguous configuration..."

McNeal '600 in no way discloses or suggests a structure as recited in amended claims 1, 4 and 19, or a method as disclosed in amended method claim 21. McNeal '600 does not disclose, *inter alia*, a blood collection apparatus having a blood collection tube with an inner surface and a gel being selectively deposited and radially contiguous on the inner surface. Rather, McNeal '600 shows a tube having longitudinal strips of gel material that are spaced apart by longitudinal ribs, and, therefore, are not radially contiguous with the inner surface of the tube.

Because of the above distinctions, it is respectfully submitted that amended independent claim 1, claim 3 depending therefrom, amended independent claim 4, claims 5-11 and 14-18 ultimately depending therefrom, amended independent claim 19, claim 20 depending therefrom, amended independent claim 21 and claims 22-29 ultimately depending therefrom are patentable

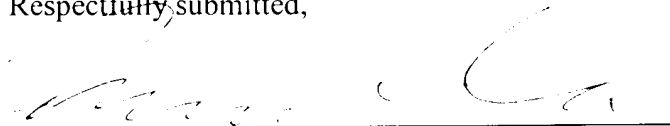
and not obvious over McNeal '600 for at least the reasons outlined hereinabove. Reconsideration and withdrawal of the rejections are respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that claims 1, 3-11 and 14-30 presently pending in the application are believed to be in condition for allowance and patentably distinguish over the art of record. An early notice thereof is earnestly solicited.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicant's undersigned attorney.

Please charge any deficiency as well as any other fees that may become due at any time during the pendency of this application, or credit any over payment of such fees to deposit account no. 50-0369. Also, in the event that any extensions of time for responding are required for the pending application, please treat this paper as a petition to extend the time as required and charge deposit account no. 50-0369 therefor.

Respectfully submitted,



Mark S. Leonardo
Reg. No. 41,433
Attorney for Applicants
Customer No. 21710
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111
617.856.8145

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